

APPEAL NO. 032222
FILED OCTOBER 9, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on July 28, 2003. The hearing officer determined that appellant (claimant) sustained a compensable injury; that the injury did not extend to focal degenerative dessication of the L5-S1 disc with a central disc herniation/protrusion; that respondent (carrier) waived the right to contest the compensability of the claimed injury; and that carrier is not relieved of liability due to claimant's failure to timely report the injury. Claimant appealed the adverse determination regarding extent of injury on sufficiency grounds. Carrier responded that the Appeals Panel should affirm the hearing officer's decision and order.

DECISION

We reverse and render.

Claimant contends that the hearing officer erred in determining that the _____, back injury did not extend to focal degenerative dessication of the L5-S1 disc with a central disc herniation/protrusion. At the time carrier contested the compensability of this injury, claimant had been diagnosed with and was being treated for focal degenerative dessication of the L5-S1 disc with a central disc herniation/protrusion as part of the compensable injury. The hearing officer has found that carrier waived the right to contest the compensability of the claimed injury and has found carrier to be liable for benefits based on the claimed injury. We cannot intelligently review the record on the appealed issues of injury, extent of injury, and waiver without confronting the fact that the determination regarding extent of injury essentially makes the waiver determination meaningless. Carrier was obligated to dispute the compensability of the claimed injury but waived such right to dispute. The legal consequence of the waiver in this case is that the carrier may not now prevail on an issue regarding extent of injury that concerns the claimed injury itself. To resolve the fatal conflict in the hearing officer's decision, we must reverse the hearing officer's determination regarding extent of injury.

We reverse the hearing officer's determination that the _____, compensable injury does not extend to focal degenerative dessication of the L5-S1 disc with a central disc herniation/protrusion and render a decision that the _____, compensable injury extends to include focal degenerative dessication of the L5-S1 disc with a central disc herniation/protrusion.

According to information provided by carrier, the true corporate name of the insurance carrier is **HARTFORD UNDERWRITERS INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Judy L. S. Barnes
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Edward Vilano
Appeals Judge